

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

AMERICAN AIRLINES, INC.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 4:23-cv-00860-P
	§	
SKIPLAGGED, INC.,	§	
	§	
Defendant.	§	

**APPENDIX TO AMERICAN AIRLINES, INC.’S RESPONSE AND BRIEF IN  
OPPOSITION TO SKIPLAGGED, INC.’S MOTION TO STRIKE AND EXCLUDE  
PLAINTIFF AMERICAN AIRLINES, INC.’S EXPERT DAVID FULLER**

In support of Plaintiff American Airlines, Inc.’s (“American”) Response and Brief in Opposition to Skiplagged, Inc.’s Motion to Strike and Exclude Plaintiff American Airlines, Inc.’s Expert David Fuller, American submits the following materials:

<u>EX.</u>	<u>DESCRIPTION</u>	<u>PAGE NOS.</u>
A	Declaration of Julia G. Wisenberg	App’x 001–03
A-1	Expert Report of David Fuller, served by American on May 31, 2024 (Confidential)	App’x 004–33
A-2	Supplemental Expert Report of David Fuller, served by American on August 2, 2024 (Confidential)	App’x 034–55
A-3	Transcript of the deposition of David Fuller, taken on June 27, 2024 (Partially Confidential)	App’x 056–84
A-4	Transcript of the deposition of Daniel Gellert, taken on November 30, 2023 (Confidential)	App’x 085–145

Dated: September 3, 2024

Respectfully submitted,

/s/ Dee J. Kelly, Jr.

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**CERTIFICATE OF SERVICE**

I certify that on September 3, 2024, I served the foregoing document electronically in accordance with the Federal Rules of Civil Procedure.

/s/ Dee J. Kelly, Jr.

Dee J. Kelly, Jr.

# **Exhibit A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

AMERICAN AIRLINES, INC.,

Plaintiff,

v.

SKIPLAGGED, INC.,

Defendant.

§  
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§  
§  
§  
§  
§

Civil Action No. 4:23-cv-00860-P

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**DECLARATION OF JULIA G. WISENBERG**

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STATE OF TEXAS           §  
                                  §  
COUNTY OF TARRANT   §

1. My name is Julia G. Wisenberg. I am over the age of 21 and competent to make this declaration as authorized under 28 U.S.C. § 1746. My business address is 201 Main Street, Suite 2500, Fort Worth, Texas 76102.

2. I make this declaration in support of Plaintiff American Airlines, Inc.'s ("American") Response and Brief in Opposition to Skiplagged, Inc.'s Motion to Strike and Exclude Plaintiff American Airlines, Inc.'s Expert David Fuller.

3. Attached as Exhibit A-1 is a true and correct copy of the Expert Report of David Fuller, served by American on May 31, 2024.

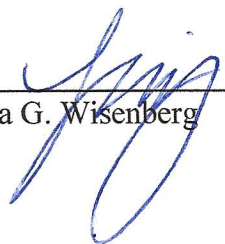
4. Attached as Exhibit A-2 is a true and correct copy of the Supplemental Expert Report of David Fuller, served by American on August 2, 2024.

5. Attached as Exhibit A-3 is a true and correct copy of the transcript of the deposition of David Fuller, taken on June 27, 2024.

6. Attached as Exhibit A-4 is a true and correct copy of the transcript of the deposition of Daniel Gellert, taken on November 30, 2023.

7. I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 3, 2024.

  
\_\_\_\_\_  
Julia G. Wisenberg

# Exhibit A-1

**Withheld Due to Confidential Information  
Pending Motion for Leave to File Under Seal**

# Exhibit A-2

**Withheld Due to Confidential Information  
Pending Motion for Leave to File Under Seal**

# Exhibit A-3



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

AMERICAN AIRLINES, INC., )  
)  
Plaintiff, )  
)  
v. ) Civil Action No.  
) 4:23-cv-00860-P  
SKIPLAGGED, INC., )  
)  
Defendants. )

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ORAL DEPOSITION OF  
DAVID N. FULLER  
JUNE 27, 2024

\*\*\*\*\*

ORAL DEPOSITION OF DAVID N. FULLER, produced as a witness at the instance of the Defendant, and duly sworn, was taken in the above-styled and numbered cause on the 27th day of June, 2024, from 8:25 a.m. to 11:30 a.m., before Julie C. Brandt, RMR, CRR, and CSR in and for the State of Texas, reported by machine shorthand at Kelly Hart & Hallman LLP, 201 Main Street, Suite 2500, Fort Worth, Texas, pursuant to the Federal Rules of Civil Procedure.

<p>1 APPEARANCES</p> <p>2 FOR THE PLAINTIFF:</p> <p>3 Lars L. Berg</p> <p>4 KELLY HART &amp; HALLMAN LLP</p> <p>5 201 Main Street, Suite 2500</p> <p>6 Fort Worth, Texas 76102</p> <p>7 lars.berg@kellyhart.com</p> <p>8</p> <p>9 FOR THE DEFENDANT:</p> <p>10 Aaron Z. Tobin</p> <p>11 CONDON TOBIN SLADEK THORNTON NERENBERG PLLC</p> <p>12 8080 Park Lane, Suite 700</p> <p>13 Dallas, Texas 75231</p> <p>14 atobin@condontobin.com</p> <p>15 -and-</p> <p>16 Darin M. Klemchuk</p> <p>17 KLEMCHUK PLLC</p> <p>18 8150 North Central Expressway, 10th Floor</p> <p>19 Dallas, Texas 75206</p> <p>20 darin.klemchuk@klemchuk.com</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 2</p>	<p>1 PROCEEDINGS</p> <p>2 DAVID N. FULLER,</p> <p>3 having been first duly sworn, testified as follows:</p> <p>4 EXAMINATION</p> <p>5 BY MR. TOBIN:</p> <p>6 Q. Please state your full legal name.</p> <p>7 A. David Neil Fuller.</p> <p>8 Q. Mr. Fuller, my name is Aaron Tobin. Do you</p> <p>9 understand I represent the defendant Skiplagged here</p> <p>10 today?</p> <p>11 A. I do.</p> <p>12 Q. Okay. And I don't believe we've ever met</p> <p>13 before. Is that your recollection as well?</p> <p>14 A. I'd agree.</p> <p>15 Q. Okay. What did you do to prepare for your</p> <p>16 deposition today?</p> <p>17 A. I went through my work file that relates to</p> <p>18 the report that I prepared in this case.</p> <p>19 Q. Okay. Did you give your complete work file</p> <p>20 over to your attorneys?</p> <p>21 A. No.</p> <p>22 Q. Okay. What parts of your work file did you</p> <p>23 not give to your attorneys?</p> <p>24 A. Well, I haven't been asked to produce</p> <p>25 anything. In this particular instance, all the</p> <p style="text-align: right;">Page 4</p>
<p>1 INDEX</p> <p>2 PAGE</p> <p>3 Appearances..... 2</p> <p>4 Proceedings..... 4</p> <p>5</p> <p>6 DAVID N. FULLER</p> <p>7 Examination by Mr. Tobin..... 4</p> <p>8</p> <p>9 Signature and Changes..... 92</p> <p>10 Reporter's Certificate..... 94</p> <p>11</p> <p>12 DEPOSITION EXHIBITS IDENTIFIED</p> <p>13 Exhibit 1 Expert Report of David N. 7</p> <p>14 Fuller, CFA, ASA, CFE</p> <p>15 Exhibit 2 Oct./Nov. 2021 email string 49</p> <p>16 SKP00053764 - 00053767</p> <p>17 Exhibit 3 Declaration of Aktarer Zaman 61</p> <p>18 App 0001 - 0004</p> <p>19 Exhibit 4 PowerPoint presentation "Hidden 75</p> <p>20 City Busters"</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 3</p>	<p>1 information that I relied on was provided by them to me.</p> <p>2 This isn't an instance where I did a bunch of</p> <p>3 independent research and gathered documents that were</p> <p>4 not part of the production. So as I sit here right now,</p> <p>5 nothing comes to mind that's in the work file that</p> <p>6 didn't come from them in the first place.</p> <p>7 Q. Do you have any workpapers or work product at</p> <p>8 all on the file that's included in your work file?</p> <p>9 A. And there's the -- some backup documents that</p> <p>10 show the formulas associated with the calculations that</p> <p>11 are contained within the report. There's no schedules</p> <p>12 to that report. But other than just the calculations</p> <p>13 for the numbers that appear in the text, I wouldn't say</p> <p>14 there's any workpapers.</p> <p>15 Q. Okay. So what is in your work file then since</p> <p>16 it hasn't been given over to your lawyers?</p> <p>17 A. A copy of my report, a bunch of documents that</p> <p>18 would be just sort of the legal folder, you know, the</p> <p>19 pleadings, interrogatories, responses. There's</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 [REDACTED] There are other documents</p> <p style="text-align: right;">Page 5</p>

<p>1 produced in the litigation that are [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>5 Mr. Gutzler's report. There's some correspondence 6 between the lawyers. There may be a few other 7 documents, but I think that generally covers the 8 waterfront.</p> <p>9 Q. Do you keep this file as a hard copy, or is 10 this an electronic file you're keeping?</p> <p>11 A. It's both.</p> <p>12 Q. Okay. Are you aware of any documents in that 13 file that were not either filed in the litigation or 14 produced in the litigation?</p> <p>15 A. No.</p> <p>16 Q. But you probably couldn't say for sure. Would 17 you say your lawyers are a better source on that?</p> <p>18 A. My lawyers -- American's lawyers are probably 19 a better source. Everything that I received either 20 looked like it was, you know, a legal document, like, 21 you know, titled interrogatories, second responses, you 22 know, something like that. Or it was a data file or -- 23 you know, either a native or a PDF, and my recollection 24 is those were Bates numbered.</p> <p>25 Q. Okay. Is everything in your file that you</p> <p style="text-align: right;">Page 6</p>	<p>1 A. Not that I can identify as I sit here right 2 now.</p> <p>3 Q. And which documents that are not categorized 4 in Exhibit 1 did you actually review in preparation for 5 your deposition today?</p> <p>6 A. That are not categorized in Exhibit 1?</p> <p>7 Q. That are not identified in Exhibit 1.</p> <p>8 A. The documents that I received subsequent to 9 preparing my report.</p> <p>10 Q. Which are?</p> <p>11 A. Which are Mr. Gutzler's report. There's an 12 email from you to Mr. Berg. There's a letter from 13 Mr. Kirkman that have to do with [REDACTED] [REDACTED]</p> <p>15 That's all that comes to mind that kind of falls into 16 that category of materials that I was provided after 17 preparing this report that wouldn't be listed in either 18 the list on the bullets on page 2 or the Attachment B.</p> <p>19 Q. Okay. So I read through those bullets in your 20 report. Let me ask you. The one that seems pretty 21 broad is the last one that says [REDACTED] [REDACTED] previously produced in this matter.</p> <p>23 Can you be more specific of what you're referring to 24 there, please?</p> <p>25 A. I guess the way I would describe that is that</p> <p style="text-align: right;">Page 8</p>
<p>1 reviewed -- strike that.</p> <p>2 Is everything in your file identified in your 3 report? I have a copy if you want to take a look at it. 4 Would that be helpful?</p> <p>5 A. Yes, it would.</p> <p>6 Q. Okay.</p> <p>7 MR. TOBIN: Can we just mark this as 8 Fuller 1, please.</p> <p>9 (Exhibit 1 marked.)</p> <p>10 MR. BERG: Thank you, sir.</p> <p>11 MR. TOBIN: Sure.</p> <p>12 A. To answer your question, there are some items 13 that are listed on page 2 that are sometimes a specific 14 reference, like the First Amended Complaint, sometimes a 15 general reference, like [REDACTED] [REDACTED] And then all of the files that I had received 17 at the time I prepared the report are listed by their 18 file names in the documents reviewed that's attached as 19 Attachment B. This wouldn't include the Gutzler report. 20 It wouldn't include some of the correspondence since -- 21 since I prepared my report. It wouldn't include the 22 more recently produced [REDACTED]</p> <p>23 Q. (BY MR. TOBIN) Okay. Are there any other 24 documents that are in your file that are not listed or 25 categorized in Exhibit 1?</p> <p style="text-align: right;">Page 7</p>	<p>1 it's a catch-all, and all that is being caught is the 2 things that are listed in Attachment B that aren't 3 listed in some other bullet on page 2.</p> <p>4 Q. Okay. Anything else you did to prepare for 5 your deposition other than what you've already described 6 today?</p> <p>7 A. I don't believe so.</p> <p>8 Q. Did you --</p> <p>9 A. Well, I did discuss preparing for my 10 deposition with Mr. Berg.</p> <p>11 Q. Okay. Other than Mr. Berg, did you discuss 12 your deposition or prepare for your deposition with 13 anybody else?</p> <p>14 A. No.</p> <p>15 Q. Okay. And how long -- I don't want you to 16 tell me what you spoke to Mr. Berg about, but how long 17 did you meet with Mr. Berg?</p> <p>18 A. 30, 45 minutes.</p> <p>19 Q. Did you text or email anybody about your 20 deposition today substantively?</p> <p>21 A. No. If by substantively, you mean anything 22 other than logistics, what time we start, here is the 23 notice, no.</p> <p>24 Q. That's exactly what I meant. So the answer is 25 "no"?</p> <p style="text-align: right;">Page 9</p>

<p>1 A. That's true.</p> <p>2 Q. Okay. All right. And I assume you're still</p> <p>3 employed with your own company as you listed on the date</p> <p>4 of your report?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Help me understand how much of your</p> <p>7 work is expert testimony work these days.</p> <p>8 A. Depends on the day. The percentage varies day</p> <p>9 to day, week to week, month to month. It's probably</p> <p>10 somewhere between 40 and 50 percent of my work and my</p> <p>11 firm's work, but the other category having to do with</p> <p>12 transactional work, tax work and financial reporting</p> <p>13 work.</p> <p>14 Q. Okay. And how about you personally? Is</p> <p>15 that -- would you say that's roughly the same percentage</p> <p>16 of your personal monthly work?</p> <p>17 A. As far as client-facing work, because I also</p> <p>18 have all of the administrative aspects of what I do; but</p> <p>19 yes, I'd say it's approximately the same breakout for me</p> <p>20 as it is my firm overall.</p> <p>21 Q. Okay. And for you personally, of that</p> <p>22 percentage of work that you do that's litigation or</p> <p>23 expert testimony driven, how much of that is valuation</p> <p>24 versus economic damages?</p> <p>25 A. I don't know. Both issues come up very</p> <p style="text-align: right;">Page 10</p>	<p>1 of paper and a pen and go through and do a specific job.</p> <p>2 Just, you know, having looked at the first couple of</p> <p>3 pages, I would say about 60 percent of them have to do</p> <p>4 with economic damages. There's a couple of these where,</p> <p>5 as I said, it was both a valuation and a damages</p> <p>6 question. So there would be sort of three categories</p> <p>7 that I could create: One's pure valuation disputes, one</p> <p>8 is pure damages disputes, another would be disputes</p> <p>9 where there were a blend of issues.</p> <p>10 Q. Have your opinions ever been successfully</p> <p>11 challenged, struck or criticized by a court or an</p> <p>12 arbitration or some sort of tribunal?</p> <p>13 A. There have been a small number of situations</p> <p>14 where some opinions have been limited, and there's been</p> <p>15 a small number of cases where there's been an opinion</p> <p>16 that was critical of opinions that were not limited and</p> <p>17 were offered, so.</p> <p>18 Q. Well, let's start with have you ever had an</p> <p>19 opinion completely struck?</p> <p>20 A. Yes.</p> <p>21 Q. How many times has that happened?</p> <p>22 A. Three or five, something like that, over the</p> <p>23 last 30 years.</p> <p>24 Q. Which cases were those?</p> <p>25 A. There was a case called Wartburg,</p> <p style="text-align: right;">Page 12</p>
<p>1 frequently. There are times when a particular report</p> <p>2 contains both types of opinions. So it's not something</p> <p>3 that I attempt to track, and I wouldn't have a</p> <p>4 percentage based on that.</p> <p>5 Q. Okay. How long have you been giving expert or</p> <p>6 consulting testimony on litigation matters?</p> <p>7 A. 30 plus years.</p> <p>8 Q. Okay. In the last five years, how many times</p> <p>9 have you been deposed or given some sort of oral</p> <p>10 testimony, be it at trial or in front of a tribunal?</p> <p>11 A. There's 35 or so times that are listed on the</p> <p>12 testimony list that's attached to my report which covers</p> <p>13 the last four years. I think you could probably just</p> <p>14 estimate 10 or 12 times a year. And so if it's five</p> <p>15 years, it would be 50 or 60 times.</p> <p>16 Q. Okay. Out of those 35 times that you've</p> <p>17 testified in the last four years, how many of those was</p> <p>18 your testimony primarily focused on economic damages?</p> <p>19 And Mr. Fuller, you understand my question? I</p> <p>20 am trying to pinpoint --</p> <p>21 A. I do.</p> <p>22 Q. -- the times that you've testified about</p> <p>23 economic damages versus testimony about valuation or</p> <p>24 some other substantive area.</p> <p>25 A. I could sort of tabulate that if I had a piece</p> <p style="text-align: right;">Page 11</p>	<p>1 W-A-R-T-B-U-R-G.</p> <p>2 There was a drug case --</p> <p>3 Q. Let me ask you -- before you go to the next</p> <p>4 one, let me ask you about Wartburg. Where was that case</p> <p>5 pending?</p> <p>6 A. It was in Houston.</p> <p>7 Q. State or federal court?</p> <p>8 A. I would guess it was state.</p> <p>9 Q. Okay. And your client was Wartburg?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And who were the lawyers on that?</p> <p>12 A. I don't remember.</p> <p>13 Q. When was the case?</p> <p>14 A. 20 plus years ago.</p> <p>15 Q. Okay. Sorry. Go to the next one.</p> <p>16 A. There was one that was a drug case that was --</p> <p>17 the only way I remember it, it's style was it was In Re:</p> <p>18 Hormone Therapy, and in that instance, the opinion was</p> <p>19 struck for a relevance objection.</p> <p>20 In Wartburg, it had to do with relevance as</p> <p>21 well because of a ruling on a motion for summary</p> <p>22 judgment that came out before the trial.</p> <p>23 Q. The In Re: Hormone Therapy case, where was it</p> <p>24 pending?</p> <p>25 A. It was in federal court somewhere. I'm not</p> <p style="text-align: right;">Page 13</p>

<p>1 sure.</p> <p>2 Q. In Texas?</p> <p>3 A. I'm not sure.</p> <p>4 Q. Okay. Who were the lawyers on it?</p> <p>5 A. There's a bunch of lawyers. I worked with</p> <p>6 some Philly lawyers at the Schiffrin Barroway firm.</p> <p>7 Q. Who was your client?</p> <p>8 A. It was a class.</p> <p>9 Q. Okay. All right. Any other cases?</p> <p>10 A. There was an oilfield service company case</p> <p>11 where my opinion was excluded because of the assumptions</p> <p>12 I was given to make by the client were determined to be</p> <p>13 speculative by the court.</p> <p>14 Q. Which court was that?</p> <p>15 A. I don't recall.</p> <p>16 Q. When was this?</p> <p>17 A. Probably ten years ago.</p> <p>18 Q. How long ago was the In Re: Hormone case?</p> <p>19 A. 20ish.</p> <p>20 Q. This oilfield service or survey case, who was</p> <p>21 your client?</p> <p>22 A. I don't remember the name of the client. It</p> <p>23 was a company that was going to be a provider of</p> <p>24 sulfuric acid to the clients in the oilfield, but I</p> <p>25 don't remember their name.</p> <p style="text-align: right;">Page 14</p>	<p>1 A. There have been some decisions that have</p> <p>2 commented on my opinions and have said things that -- or</p> <p>3 identified elements of my opinions that they didn't</p> <p>4 agree with.</p> <p>5 Q. Okay. And which cases are those?</p> <p>6 A. I don't know. I don't have a list that I walk</p> <p>7 around with.</p> <p>8 Q. Okay. Could you find those cases and --</p> <p>9 A. I've been involved in thousands of cases, so</p> <p>10 I wouldn't take on the request and say, I'll go and</p> <p>11 research what all opinions that have ever been written</p> <p>12 say. There's a couple that I've been asked about in</p> <p>13 other depositions that I could come up with.</p> <p>14 Q. Which ones are those?</p> <p>15 A. There's a case called IIC versus somebody</p> <p>16 that's a Delaware Chancery Court case where the opinion</p> <p>17 basically split the difference between my opinion and</p> <p>18 the opposing expert, and it said some negative things</p> <p>19 about both of us and came up with a number that was in</p> <p>20 the middle.</p> <p>21 There's an appellate decision in a case called</p> <p>22 AZZ versus Morgan, where the appellate court said that</p> <p>23 assumptions that I relied on in my report were</p> <p>24 speculative.</p> <p>25 So I've gotten asked about those two cases</p> <p style="text-align: right;">Page 16</p>
<p>1 Q. Where was that case pending?</p> <p>2 A. I believe it was in federal court in Fort</p> <p>3 Worth, but I can't remember whose court.</p> <p>4 Q. Any other cases where your opinions were</p> <p>5 either partially or fully struck or criticized by a</p> <p>6 court or tribunal?</p> <p>7 A. Well, those are two completely different</p> <p>8 things. Struck --</p> <p>9 Q. Well, let's start with struck, either</p> <p>10 partially or fully?</p> <p>11 A. I don't recall any other case where an</p> <p>12 opinion's been struck.</p> <p>13 Q. Or disregarded?</p> <p>14 MR. BERG: Objection. It calls for</p> <p>15 speculation. He can't possibly testify about what was</p> <p>16 in somebody's mind.</p> <p>17 A. When you ask about opinions being limited or</p> <p>18 excluded, I'm thinking of the outcome of motions to</p> <p>19 exclude or those kinds of formal motions before the</p> <p>20 court. When you say disregarded, that sounds like</p> <p>21 you're asking me what weight a court gave my opinions in</p> <p>22 the outcome of the case, and I can't comment on that.</p> <p>23 Q. (BY MR. TOBIN) Okay. What about criticized?</p> <p>24 Have your opinions ever been criticized by a court and</p> <p>25 to include an appellate court?</p> <p style="text-align: right;">Page 15</p>	<p>1 from time to time.</p> <p>2 Q. Any others you can think of or you've been</p> <p>3 asked about before about potentially criticizing your</p> <p>4 work?</p> <p>5 A. Not as I sit here just right now.</p> <p>6 Q. All right. These cases where your opinions</p> <p>7 were either struck partially or in full, could you get</p> <p>8 us the exact style of the case? Is that attainable in</p> <p>9 your files?</p> <p>10 MR. BERG: Objection. You don't have to</p> <p>11 agree to go do additional work.</p> <p>12 A. I'll respond to a request if a request is</p> <p>13 made. I'm not going to take to-do items as part of the</p> <p>14 deposition transcript.</p> <p>15 Q. (BY MR. TOBIN) I'm just asking if you could.</p> <p>16 Could you find that information in your files, if</p> <p>17 needed?</p> <p>18 A. I don't know, in that some of the cases that</p> <p>19 we've mentioned go back to predecessor firms, and so I</p> <p>20 don't know what I have.</p> <p>21 Q. When you say predecessor firms, predecessor</p> <p>22 firms you worked at?</p> <p>23 A. Yes.</p> <p>24 Q. How long have you had your own firm?</p> <p>25 A. Since 2000.</p> <p style="text-align: right;">Page 17</p>

<p>1 Q. Okay. Any other cases where your opinions 2 were criticized -- excuse me -- were struck by a court 3 or a tribunal, either partially or in full, other than 4 the ones you've told me about? 5 A. None come to mind right now. 6 Q. Okay. Forgive these. These are just a couple 7 standard questions I always ask. 8 Have you ever filed for bankruptcy or any type 9 of insolvency proceeding? 10 A. No. 11 Q. Have you ever been charged or arrested or 12 convicted of a crime other than a minor traffic offense? 13 A. No. 14 Q. Are you on any medications or have any 15 conditions that would affect your ability to give 16 truthful testimony or to recall events or relevant 17 testimony? 18 A. No. 19 Q. Who hired you for this case? 20 A. American Airlines through its counsel Kelly 21 Hart. 22 Q. So your retention agreement is with Kelly 23 Hart? 24 A. Yes. 25 Q. And who specifically at Kelly Hart is your</p> <p style="text-align: right;">Page 18</p>	<p>1 Q. On this case when were you retained? 2 A. Early this year. 3 Q. In '24? 4 A. I believe so. 5 Q. Are there any mistakes or omissions in that 6 report that's Exhibit 1? 7 A. I don't know what would be an omission. There 8 are -- there's one typo in the report [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] 15 And other than -- other, you know, grammatical 16 or typographical error that somebody might point out, 17 I'm not aware of anything that affects the actual 18 numbers or conclusions. 19 Q. Okay. So other than that change in the number 20 on page 10, are there any substantive mistakes or errors 21 in your report that you're aware of? 22 A. No. 23 Q. Is there anything in the report that you 24 believe needs to be changed, explained or modified? 25 A. There's nothing in the report that I would</p> <p style="text-align: right;">Page 20</p>
<p>1 contact? 2 A. Mr. Berg. 3 Q. Have you ever been employed or retained by 4 American Airlines before on any other cases? 5 A. I don't recall any others as I sit here right 6 now. 7 Q. So how sure are you that American hasn't 8 retained you on another matter? 9 A. Pretty sure, but I've been involved in a lot 10 of projects. 11 Q. How about the Kelly Hart firm, have they 12 retained you on other matters? 13 A. Yes. 14 Q. How many times in the last five years? 15 A. I don't know. I've worked both with and 16 opposite Kelly Hart lawyers with some frequency. In the 17 last five years, I don't know, maybe three or four times 18 against, 10 or 12 times with, something like that. 19 Q. And of those 10 or 12 times, how many times 20 have either Mr. Berg or Mr. Kelly been involved in that 21 case? 22 A. In the last five years, I don't think there 23 were any other cases that I worked on with Mr. Berg. 24 Maybe one. I don't recall working with Mr. Kelly on any 25 prior cases in the last five years.</p> <p style="text-align: right;">Page 19</p>	<p>1 say needs to be changed, explained or modified. I 2 clearly reserved, in terms of anticipating that I 3 would supplement based on additional opinions, based 4 on continuing discovery; and so I expect there will be 5 additional opinions and modified opinions based on the 6 booking information when it's produced in a usable 7 form. 8 Q. I forgot to ask you about Greenberg Traurig. 9 Are you familiar with that firm? 10 A. I am. 11 Q. Okay. Have you worked with any of those 12 lawyers on this case? 13 A. I haven't worked -- I have worked with the 14 Greenberg Traurig firm on a number of occasions 15 elsewhere, other offices, other professionals. I have 16 not worked with any of the professionals that are 17 involved in this case previously. 18 Q. Did anyone at your firm, other than you, help 19 you or assist you with the matters you were retained for 20 on this case? 21 A. One member of my consulting staff has 22 collaborated with me on this project. His name is Harry 23 Whiting. 24 Q. How do you spell his last name, please? 25 A. W-H-I-T-I-I-N-G.</p> <p style="text-align: right;">Page 21</p>

<p>1 Q. What was Mr. Whiting's role in forming your 2 conclusions?</p> <p>3 A. He just generally assisted me with the 4 project. So he and I collaborated on the analysis, the 5 drafting of the report, organization of the files, those 6 types of things.</p> <p>7 Q. Did he do any of the actual analysis or 8 mathematics in the report?</p> <p>9 A. I wouldn't say he did them to the extent that 10 that infers he did them independently. He and I 11 collaborated on the report. So we did -- what work he 12 did on the report, we did together.</p> <p>13 Q. Okay. So would you say that you -- at least 14 if you didn't perform the work yourself, you at least 15 verified all the conclusions, numbers and calculations 16 that are in the report?</p> <p>17 A. Yes.</p> <p>18 Q. Anybody else that helped you on this report 19 other than Mr. Whiting?</p> <p>20 A. No.</p> <p>21 Q. And what is his position with your firm?</p> <p>22 A. He's an analyst, a member of my consulting 23 staff.</p> <p>24 Q. So he reports to you?</p> <p>25 A. He does.</p> <p style="text-align: right;">Page 22</p>	<p>1 reviewed in your file?</p> <p>2 A. We talked [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>11 Q. And when you say [REDACTED] [REDACTED] [REDACTED]</p> <p>14 A. No. [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>18 Q. Other than what you just testified about, is 19 there any other information that the American Airlines 20 personnel provided you on these calls or in these 21 meetings outside of the information that's identified on 22 your report?</p> <p>23 A. Not that I recall.</p> <p>24 Q. Did all of these meetings occur or calls occur 25 before you issued your report?</p> <p style="text-align: right;">Page 24</p>
<p>1 Q. Now have you communicated or interacted with 2 any of the American Airlines personnel in doing your 3 work or coming to your conclusions on this case?</p> <p>4 A. American Airlines folks have been involved in 5 a couple of conversations.</p> <p>6 Q. Okay. And who were those people?</p> <p>7 A. Dan Broadfield is somebody that I spoke with. 8 There were some other folks that were involved in some 9 of the discussions as boxes on a Zoom call, but I don't 10 recall other names without looking at my notes.</p> <p>11 Q. Okay. And how many calls or meetings did you 12 have with the American Airlines personnel?</p> <p>13 A. Two or three meetings probably that involved 14 someone who was there from American.</p> <p>15 Q. And was Mr. Broadfield involved in all those?</p> <p>16 A. No.</p> <p>17 Q. Do you remember any of the other people that 18 were involved from American Airlines?</p> <p>19 A. Not without referring to my notes.</p> <p>20 Q. Okay. And were those meetings you called 21 because you needed information from American?</p> <p>22 A. Not necessarily.</p> <p>23 Q. Okay. What information was provided to you by 24 that American Airlines personnel that is not in the 25 documents that you've already testified about that you</p> <p style="text-align: right;">Page 23</p>	<p>1 A. Generally, yes. There may have been an 2 American person on a subsequent call talking about [REDACTED] [REDACTED]. Actually, I don't think 4 there was, so I would agree those were before my report.</p> <p>5 Q. Just to close the loop here, did American 6 Airlines personnel ever text or email or communicate 7 with you in written or electronic form?</p> <p>8 A. I don't believe so.</p> <p>9 Q. Have you helped prepare any of the American 10 Airlines personnel for their depositions?</p> <p>11 A. No.</p> <p>12 Q. Is there anything else other than what is 13 listed in your report or contained in your file or that 14 you gathered in these meetings with American Airlines 15 that you're relying on in forming your conclusions and 16 opinions in this case?</p> <p>17 A. I can't think of anything that would meet that 18 description.</p> <p>19 Q. How about any authoritative texts or treatises 20 or industry white papers, et cetera, that you're relying 21 on for forming the basis of your conclusions or opinions 22 in this case?</p> <p>23 A. I don't believe so.</p> <p>24 Q. If you would, turn on your report starting on 25 page 3, the section that begins "Background of the</p> <p style="text-align: right;">Page 25</p>



1 Situation."  
2 A. Yes.  
3 Q. And it goes all the way through paragraph 19  
4 contained on page 5. You're familiar with that portion  
5 of your report?  
6 A. I am.  
7 Q. Okay. And is it fair to say that there are no  
8 independent opinions or conclusions by you in that  
9 section of your report, and anything listed in that  
10 section of the report [REDACTED]  
[REDACTED]  
12 A. I wouldn't put it quite that way. I would  
13 say that anything that's in that set of paragraphs from  
14 10 through 19 is -- is my understanding of the factual  
15 background, and I wouldn't characterize what's contained  
16 there as any expert opinions I intend to offer.  
17 Q. Okay. Did you do [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Page 26

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7 Q. Okay. Anything else that is your independent  
8 analysis or work or investigation in paragraphs 10  
9 through 19 other than what you just quoted to me or  
10 testified to?

11 A. I don't think so.

12 Q. And the stuff from [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

17 A. Yes, [REDACTED]

18 Q. So just, for example, let's look at paragraph  
19 14.

20 A. All right. I'm there.

21 Q. And if you look about halfway through the  
22 paragraph, you see where there's a quote; and then after  
23 the quote, the text reads [REDACTED]  
[REDACTED]  
[REDACTED]

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1 A. Yes.  
2 Q. Okay. So I guess what I'm trying to find out  
3 is do [REDACTED]  
[REDACTED]  
[REDACTED]  
6 A. [REDACTED]  
[REDACTED]  
[REDACTED]  
9 Q. Okay. So you're [REDACTED]  
[REDACTED]  
[REDACTED]  
12 A. I agree.  
13 Q. The same thing, just to spot-check a couple of  
14 these. Let's look at paragraph 17. It's on page 5.  
15 A. I see it.  
16 Q. Okay. And where you said that -- [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] Do you see that?  
21 A. I do.  
22 Q. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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1 A. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
7 Q. Okay. But I guess to be more precise, that  
8 statement is not your professional opinion, correct?  
9 A. That's true.  
10 Q. Let's look at paragraph 18.  
11 A. Yeah.  
12 Q. It says, [REDACTED]  
[REDACTED]  
[REDACTED] See that?  
15 A. I do.  
16 Q. Okay. It would be the same question. That's  
17 not your professional opinion, right; [REDACTED]  
[REDACTED]  
19 A. Paragraph 21 I said, [REDACTED]  
[REDACTED]  
[REDACTED]. And I think  
22 that applies to paragraph 18 and the other paragraphs in  
23 that section of I'm not giving expert opinion about  
24 those fact issues. I understand [REDACTED]  
[REDACTED]

Page 29



<p>3 Q. Okay. And I guess, likewise, if we look at 4 the next -- or, I guess, two sections down in page 6, 5 the [REDACTED] " do you see 6 that section? 7 A. Yes. 8 Q. And I assume everything in paragraph 23 are, 9 just as you state, [REDACTED] You're not stating that 10 anything in paragraph 23 and the corresponding bullet 11 points are actually your opinions; [REDACTED] [REDACTED] Correct? 13 A. That's true. 14 Q. Who actually wrote this report? Did you draft 15 it yourself? 16 A. Mr. Whiting and I worked together on it and 17 wrote it from a template that was -- that existed on my 18 server from prior projects. So there's some content 19 that carried over without much -- without many changes, 20 and then there's things that I personally wrote, things 21 that Mr. Whiting wrote that I edited. 22 Q. Okay. How many drafts of the report were made 23 before you came to the final draft or version? 24 A. I don't know. It depends on how you define 25 draft.</p> <p style="text-align: right;">Page 30</p>	<p>1 or circulated outside your firm? 2 A. That's true. 3 Q. Anyone other than you and Mr. Whiting assist 4 with the actual drafting of this report? 5 A. It's our practice to have someone not involved 6 in the project proof a report just for fresh eyes, 7 grammar, that kind of thing. So it's likely someone 8 else read through the report and redlined it as part of 9 our QC process. But it wouldn't have been substantive 10 input; it would have just been reading for grammar and 11 that kind of thing. 12 Q. But this is someone within your firm? 13 A. Yes. 14 Q. And do you know who it was on this particular 15 case? 16 A. No, I don't. 17 Q. Did you reach any conclusions that actually 18 did not make it into your report in this case? 19 A. I don't believe so. 20 Q. Were you ever asked to give an opinion on any 21 subject matter that is not included in your report? 22 A. I don't recall having been asked to perform 23 analysis or form opinions on any topics other than those 24 that are reflected in the report. 25 Q. Okay. So your report contains the totality of</p> <p style="text-align: right;">Page 32</p>
<p>1 Q. Well, did you circulate any previous drafts 2 between you and Mr. Whiting or you and anybody else? 3 I'm not talking about just going in and editing your own 4 work and that makes a different draft. I'm talking 5 about did you finish a work product, a draft, and then 6 circulate it to somebody else? 7 A. Internally, I can't say how many times it was 8 either printed or edited on screen. As it evolved, you 9 know, to your point, every time you hit a keystroke, 10 it's technically a different document. But over a 11 period of about a week, probably that happened on 12 numerous occasions. I don't recall in this case having 13 circulated a draft outside of my firm prior to 14 publishing it. 15 Q. But your file would reflect that, whether 16 there were different versions that were circulated 17 outside your firm? 18 A. Generally, I don't retain any -- any copies of 19 drafts that are different versions of the report as it 20 evolves within the firm. They just get overwritten and 21 saved serially until it's a final report. Generally, I 22 would -- if there was a report that was sent to a 23 client, I would have a record of what that version was. 24 Q. But you're not recalling of any such versions 25 in this case, is that right, that were sent to a client</p> <p style="text-align: right;">Page 31</p>	<p>1 your opinions that you're prepared to give in this case? 2 A. It addresses all the topics and conclusions 3 that I've reached. When you say the totality of my 4 opinions, that doesn't necessarily say that the report 5 contains 100 percent of my knowledge and understanding 6 and, therefore, you know, if it's not specifically 7 stated in the report, I couldn't answer a question. But 8 all of the topics and ultimate conclusions I believe are 9 listed. 10 Q. Okay. But if there are any opinions that you 11 are prepared to or planning on giving in this case that 12 are not listed in this report, I would like to know what 13 those are right now, please. 14 A. Well, I don't know of any other -- 15 MR. BERG: Objection, calls for 16 speculation. How can he possibly know what he's going 17 to testify about [REDACTED] [REDACTED] So if that's where you were headed, then let's 19 just -- 20 MR. TOBIN: Lars, we don't need speaking 21 objections. You can just object to the form if you've 22 got an objection, and then he can answer the question. 23 Q. (BY MR. TOBIN) I'm wanting to know if you 24 have, as we sit here today, any opinions that you plan 25 to testify about at trial or that you formed in this</p> <p style="text-align: right;">Page 33</p>

<p>1 case that are not contained in Exhibit 1?</p> <p>2 A. I don't think there's opinions on any other</p> <p>3 topics that -- any other damages, theories or components</p> <p>4 that -- other than the things that are discussed here.</p> <p>5 There's the continuing discussion about [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>10 these are the conclusions I've reached.</p> <p>11 Q. Okay. So you mentioned these [REDACTED]</p> <p>[REDACTED] Has that led to any additional</p> <p>13 opinions that you have in this case other than what's</p> <p>14 listed in Exhibit 1?</p> <p>15 A. Well, there's nothing in Exhibit 1 about [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>22 Q. Okay. What are those opinions and</p> <p>23 observations?</p> <p>24 A. Generally, [REDACTED]</p> <p>[REDACTED]</p> <p style="text-align: right;">Page 34</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>5 Q. Any other written product that you've prepared</p> <p>6 or begun to prepare as it relates to additional opinions</p> <p>7 or observations that are not contained in Exhibit 1?</p> <p>8 A. Not that I can think of right now.</p> <p>9 Q. Are there any opinions or observations that</p> <p>10 you've made that are not contained in Exhibit 1 other</p> <p>11 than this issue that you just testified about [REDACTED]</p> <p>[REDACTED]</p> <p>13 A. Well, I have reviewed Mr. Gutzler's report and</p> <p>14 have some [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>17 Q. What are your observations or opinions related</p> <p>18 to that, Mr. Gutzler's work?</p> <p>19 A. Well, I would say [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p style="text-align: right;">Page 36</p>
<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>10 Q. Okay. But those opinions [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>14 A. I don't know if I agree with that. [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>23 Q. Have you condensed these observations or</p> <p>24 opinions to any type of written form?</p> <p>25 A. [REDACTED]</p> <p style="text-align: right;">Page 35</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>5 Q. When you say he made, are you talking about</p> <p>6 Mr. Gutzler?</p> <p>7 A. Yes, in Mr. Gutzler's report. [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>12 Q. Any other observations or opinions you have as</p> <p>13 it relates to Mr. Gutzler's work?</p> <p>14 A. I think those points generally cover the</p> <p>15 topics.</p> <p>16 Q. And those points you would describe of</p> <p>17 critiques you have of Mr. Gutzler's work?</p> <p>18 A. I wouldn't disagree with that</p> <p>19 characterization.</p> <p>20 Q. Any other critiques you have or criticisms you</p> <p>21 have of Mr. Gutzler's work other than what you've</p> <p>22 already testified about?</p> <p>23 A. None come to mind right now.</p> <p>24 Q. Do you anticipate developing any other</p> <p>25 opinions or observations to offer in this case other</p> <p style="text-align: right;">Page 37</p>



1 instance, on page 30 you [REDACTED] --  
 2 A. Paragraph 30.  
 3 Q. I'm sorry, paragraph 30. Thank you.  
 4 Paragraph 30 on page 9 --  
 5 A. Right.  
 6 Q. [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED], right?  
 11 A. That's true.  
 12 Q. But in paragraph 30, [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED] correct?  
 16 A. Yes.  
 17 Q. And you [REDACTED]  
 [REDACTED], right?  
 19 A. True.  
 20 Q. [REDACTED]  
 [REDACTED]  
 22 A. [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]

Page 42

[REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 6 Q. Okay. So I think I'm with you, but let me  
 7 make sure I understand. [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED] right?  
 11 A. That's true.  
 12 Q. And you [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED] Is that accurate?  
 16 A. It is.  
 17 Q. Okay. And that would be [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED] Is that fair?  
 21 A. It is.  
 22 Q. Okay. So if we fast-forward to paragraph 38,  
 23 do you see the sentence that says, [REDACTED]  
 [REDACTED]  
 [REDACTED]

Page 43

1 A. I do.  
 2 Q. [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 7 A. Yes.  
 8 Q. [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 12 A. I don't believe so.  
 13 Q. All right. Okay. [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED], correct?  
 17 A. [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 21 Q. Okay. I'm just trying to identify -- at least  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]

Page 44

[REDACTED]  
 [REDACTED] Is that correct?  
 3 A. I don't think I would put it quite that way  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 10 Q. Okay.  
 11 MR. TOBIN: Before we get there, Lars, my  
 12 understanding of the testimony is that [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 16 MR. BERG: We'll consider the request.  
 17 MR. TOBIN: When do you believe you'll be  
 18 able to tell me whether [REDACTED]  
 [REDACTED]  
 20 MR. BERG: I don't know that.  
 21 Q. (BY MR. TOBIN) All right. Let's go to  
 22 paragraph 33.  
 23 A. All right.  
 24 Q. Now if I understand your analysis [REDACTED]  
 [REDACTED]  
 [REDACTED]

Page 45

[illegible]

12 Q. Okay. Let me make sure I understand, because  
13 my understanding of your report is [REDACTED]

16 A. [REDACTED]  
[REDACTED], that's true.

18 Q. Okay. So that's what you were relying on [REDACTED]

20      A. I did.

21 Q. [REDACTED]

22 A. [REDACTED]

25 Q. Okay. All right. But I am just drilling

Page 46

1 understand under [REDACTED]

3 A. I don't have an understanding of [REDACTED]

5 Q. Okay. Well, why don't for purposes of my  
6 question, if you would please, sir, just assume that  
7 that's correct.

8     A. Okay.

9 Q. And then I would ask you [REDACTED]

13 MR. BERG: Objection, calls for  
14 speculation.

15 A. I can't give you an opinion about [REDACTED]

1 down right now on [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] correct?

6 A. Agreed.

7 Q. Okay. [REDACTED]

13 A. [REDACTED]

20 Q. Okay. And so which -- which source

23 A. [REDACTED]

25 Q. Let me stop you there for a second. Do you

Page 47

2 Q. (BY MR. TOBIN) So but just to close the loop  
3 on this, [REDACTED]

6 A. I think so.

7 Q. Now -- and I can pull it out if we need to,  
8 I'm happy to do that, but do you remember [REDACTED]

11 A. I don't recall that without having -- without  
12 looking at the document.

13 Q. Okay.

14 MR. TOBIN: Mark this as Exhibit 2.

15 (Exhibit 2 marked.)

16 A. Thank you.

17 Q. (BY MR. TOBIN) [REDACTED]

21 A. Yes, [REDACTED]

22 Q. Okay. And if you look on the second page of

24 A. Yes.

25 Q. Again, this is [REDACTED]

Page 48

Page 49

[REDACTED]. Do you  
2 see [REDACTED]  
[REDACTED]

4 A. I do.

5 Q. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] right?

9 A. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

20 Q. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

25 MR. BERG: Objection, calls for

Page 50

[illegible]

1 speculation.

2 A. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

10 Q. (BY MR. TOBIN) Yeah, but you understand [REDACTED]  
[REDACTED]  
[REDACTED] right?

13 A. Yes.

14 Q. Okay. And here in this exhibit [REDACTED]  
[REDACTED], right?

16 A. He says [REDACTED]

17 Q. Okay. So if you were going to perform  
18 analysis based on assuming [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED], right?

23 MR. BERG: Objection, calls for  
24 speculation, multiple questions.

25 A. [REDACTED]

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1 you just described [REDACTED]  
[REDACTED]  
[REDACTED]

4 MR. BERG: Objection, calls for  
5 speculation, calls -- improperly calls for a legal  
6 conclusion.

7 A. It might be. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

11 Q. (BY MR. TOBIN) And of the analysis that we've  
12 discussed so far on your damage opinions, [REDACTED]  
[REDACTED]  
[REDACTED]

15 A. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

19 Q. And other than the [REDACTED]  
[REDACTED] are you basing that assumption on anything else?

21 A. [REDACTED].

22 Q. Okay. Anything else you're basing that  
23 assumption on?

24 A. No.

25 Q. Okay. Go ahead. I'm sorry, I didn't mean to

Page 53

1 interrupt you.  
 2 A. [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 10 Q. Okay. So other than what you just described,  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 14 A. Well, you say other than what I've described.  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 21 Q. Okay. Just to make sure I close the loop on  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 Page 54

[REDACTED] Is that fair?  
 2 A. I believe so.  
 3 Q. Okay. And, again, those -- at least that  
 4 portion of your analysis, [REDACTED]  
 [REDACTED]  
 [REDACTED] Would you agree with  
 7 that?  
 8 A. [REDACTED], I would agree with  
 9 that.  
 10 Q. Let's move on and talk about page 12 of your  
 11 report, starting on page 12, which is a new heading. It  
 12 says [REDACTED]  
 13 A. Yes.  
 14 Q. If I understand -- just to make a breaking  
 15 point here, if I understand, everything that we've been  
 16 discussing before as far as your actual damage opinions,  
 17 starting before paragraph 40 relates to what's [REDACTED]  
 [REDACTED] Is that fair?  
 19 A. Generally, yes.  
 20 Q. Okay. And then starting on page 40 is where  
 21 you [REDACTED]  
 [REDACTED]  
 [REDACTED] correct?  
 24 A. Yes.  
 25 Q. Okay. And if I understand your calculation,  
 Page 55

[REDACTED]  
 [REDACTED]  
 [REDACTED] Is that accurate?  
 5 A. It is.  
 6 Q. Okay. [REDACTED]  
 [REDACTED]  
 [REDACTED] Is that correct?  
 9 A. [REDACTED]  
 10 Q. So you don't know if [REDACTED]  
 [REDACTED]  
 [REDACTED] Is that what you're saying?  
 13 A. [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 18 Q. But your analysis, [REDACTED]  
 [REDACTED]  
 [REDACTED] correct?  
 21 A. [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 24 Q. [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 Page 56

[REDACTED]  
 [REDACTED]  
 3 A. Agreed.  
 4 Q. Okay. And are you aware that my client has  
 5 stated that [REDACTED]  
 6 MR. BERG: Objection, calls for  
 7 speculation.  
 8 A. I'm not aware of [REDACTED]  
 [REDACTED]  
 10 Q. (BY MR. TOBIN) Have you reviewed [REDACTED]  
 [REDACTED] ?  
 12 A. No, I haven't.  
 13 Q. Have you reviewed [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 19 A. I have not reviewed [REDACTED] that meets the  
 20 description you've just made.  
 21 Q. Okay. Would you agree with me, though, that  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 25 MR. BERG: Objection, calls for  
 Page 57

<p>1 speculation.</p> <p>2 A. I wouldn't know without [REDACTED]</p> <p>4 Q. (BY MR. TOBIN) Let's say [REDACTED]</p> <p>10 MR. BERG: Objection, vague and calls for</p> <p>11 speculation.</p> <p>12 A. [REDACTED]</p> <p>23 Q. (BY MR. TOBIN) In essence, you would [REDACTED]</p> <p>25 MR. BERG: Objection, calls for</p> <p style="text-align: right;">Page 58</p>	<p>1 Q. And you reviewed [REDACTED]</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And is there anything in that [REDACTED]</p> <p>8 A. I don't think so. [REDACTED]</p> <p>16 Q. But that's related to -- [REDACTED]</p> <p>19 A. [REDACTED]</p> <p>22 Q. Okay. But my question relates specifically to [REDACTED]</p> <p style="text-align: right;">Page 60</p>
<p>1 speculation.</p> <p>2 A. If I were provided some other information,</p> <p>3 then I would look at it and see if it differed and what</p> <p>4 the new information would indicate if I were to rely on</p> <p>5 it instead.</p> <p>6 Q. (BY MR. TOBIN) Okay. So I see that you -- in</p> <p>7 that paragraph contained on page 13, top portion of the</p> <p>8 page, you [REDACTED]</p> <p>10 where I'm referencing?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. [REDACTED]</p> <p>13 A. [REDACTED]</p> <p>22 Q. Okay. And I believe you testified that you've</p> <p>25 A. Yes.</p> <p style="text-align: right;">Page 59</p>	<p>1 A. I do.</p> <p>2 Q. Okay. And so based on [REDACTED]</p> <p>4 change or alter on your opinions or conclusions?</p> <p>5 A. Not that comes to mind right now.</p> <p>6 Q. Okay. I hand you what's been marked as</p> <p>7 Exhibit 3.</p> <p>8 (Exhibit 3 marked.)</p> <p>9 MR. BERG: Thank you.</p> <p>10 Q. (BY MR. TOBIN) I believe you reference in</p> <p>11 your report [REDACTED]</p> <p>15 A. I believe I've seen this, yes.</p> <p>16 Q. Okay. Is there anything in this document that</p> <p>17 would lead you to want to change or alter your analysis</p> <p>18 or your damage opinions given in Exhibit 1?</p> <p>19 A. [REDACTED]</p> <p style="text-align: right;">Page 61</p>



3 Q. And did you consider

7 A. I understood the

21 Q. Okay. But for purposes of your analysis on

25 A.

Page 62

3 Q. But your analysis

6 A. I think it does.

7 Q. Okay.

■, correct?

9 A.

11 Q. Okay. So to this noneconomics guy, if you  
12 wouldn't mind, please explain [REDACTED]

14 A.

3 Q. Okay. But you're

8 A. Yes.

15	Q.
----	----

Page 63

21 MR. BERG: Objection, calls for  
22 speculation.

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[illegible][illegible]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

(S)


24 understand your testimony. [REDACTED]  
[REDACTED]

[illegible]

1. [REDACTED]

2. [REDACTED]

3. [REDACTED]

4. [REDACTED]

5. [REDACTED]

6. [REDACTED]

7. [REDACTED]

8. [REDACTED]

9. [REDACTED]

10. [REDACTED]

[illegible]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3 A. It's true [REDACTED]  
[REDACTED]

5 Q. Did you consider [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[illegible]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

25 A. [REDACTED] Page 79

[REDACTED]

( [REDACTED] )

[REDACTED]

[REDACTED]

[REDACTED]

\_\_\_\_\_

1. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[REDACTED]

19 Q. Do you understand [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25 0. [REDACTED], correct?

Page 8

App'x 077

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[REDACTED]  
[REDACTED] correct?

3 A. Yes.

4 Q. Are you aware [REDACTED]  
[REDACTED]  
[REDACTED]

7 A. No, not specifically.

8 Q. Okay. So you didn't [REDACTED]  
[REDACTED]

10 A. No, I didn't. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

16 Q. Well, let me make sure I understand your  
17 analysis [REDACTED]  
[REDACTED]  
[REDACTED] Are you with me so far?

20 A. I am.

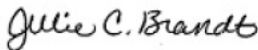
21 Q. Okay. If a court were to decide that, or a  
22 jury were to decide, that American is entitled to the  
23 actual damages that you've outlined in your analysis,  
24 then [REDACTED]  
[REDACTED]

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<p>1 [REDACTED]</p> <p>2 Q. How much have you paid by American Airlines</p> <p>3 for your services so far?</p> <p>4 A. [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 Q. That's how much you've charged, or that's how</p> <p>9 much you've been paid?</p> <p>10 A. [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 Q. How much time did you spend reviewing</p> <p>15 documents to prepare for this deposition?</p> <p>16 A. To prepare for the deposition, two or three</p> <p>17 hours.</p> <p>18 Q. And for purposes of your opinions -- I believe</p> <p>19 you state in this your report. But for purposes of your</p> <p>20 opinion, [REDACTED], correct?</p> <p>21 A. Yes.</p> <p>22 MR. TOBIN: Let's go off the record.</p> <p>23 MR. BERG: You bet.</p> <p>24 MR. TOBIN: Sorry to take a break again</p> <p>25 so quickly, but I may be done. I would just like to</p> <p style="text-align: right;">Page 90</p>	<p>1 CHANGES AND SIGNATURE</p> <p>2 WITNESS NAME: DAVID N. FULLER</p> <p>3 DATE OF DEPOSITION: JUNE 27, 2024</p> <p>4 PAGE LINE CHANGE REASON</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 Job No. TX6757398</p> <p style="text-align: right;">Page 92</p>
<p>1 confer with Darin real quickly.</p> <p>2 (Break from 11:26 a.m. to 11:30 a.m.)</p> <p>3 (Proceedings ended at 11:30 a.m.)</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 91</p>	<p>1 I, DAVID N. FULLER, have read the foregoing</p> <p>2 deposition and hereby affix my signature that same is</p> <p>3 true and correct, except as noted above.</p> <p>4</p> <p>5 _____</p> <p>6 DAVID N. FULLER</p> <p>7</p> <p>8 THE STATE OF _____)</p> <p>9 COUNTY OF _____)</p> <p>10 Before me, _____, on</p> <p>11 this day personally appeared DAVID N. FULLER, known to</p> <p>12 me (or proved to me under oath or through</p> <p>13 _____) (description of identity</p> <p>14 card or other document) to be the person whose name is</p> <p>15 subscribed to the foregoing instrument and acknowledged</p> <p>16 to me that they executed the same for the purposes and</p> <p>17 consideration therein expressed.</p> <p>18 Given under my hand and seal of office this</p> <p>19 _____ day of _____, _____.</p> <p>20</p> <p>21</p> <p>22 _____</p> <p>23 NOTARY PUBLIC IN AND FOR</p> <p>24 THE STATE OF _____</p> <p>25 COMMISSION EXPIRES: _____</p> <p style="text-align: right;">Page 93</p>



<p>1 REPORTER'S CERTIFICATE</p> <p>2 The undersigned Certified Shorthand Reporter</p> <p>3 licensed in the State of Texas does hereby certify:</p> <p>4 I am authorized to administer oaths or</p> <p>5 affirmations, and prior to being examined, the witness</p> <p>6 was duly administered an oath by me.</p> <p>7 I am not a relative or employee or attorney or</p> <p>8 counsel of any of the parties, nor am I a relative or</p> <p>9 employee of such attorney or counsel, nor am I</p> <p>10 financially interested in the outcome of this action.</p> <p>11 I am the deposition officer who</p> <p>12 stenographically recorded the testimony in the foregoing</p> <p>13 deposition, and the foregoing transcript is a true</p> <p>14 record of the testimony given by the witness.</p> <p>15 Before completion of the deposition, review of</p> <p>16 the transcript [X] was [ ] was not requested. If</p> <p>17 requested, any changes made by the deponent (and</p> <p>18 provided to the reporter) during the period allowed are</p> <p>19 appended hereto.</p> <p>20 In witness whereof, I have subscribed my name</p> <p>21 this 5th day of July, 2024.</p> <p>22</p> <p>23</p> <p>24  Julie C. Brandt, CSR, RMR, CRR</p> <p>25 TX CSR No. 4018, Exp. 10/31/25</p> <p style="text-align: right;">Page 94</p>	
<p>1 lars.berg@kellyhart.com</p> <p>2 July 5, 2024</p> <p>3 RE: American Airlines, Inc. v. Skiplagged, Inc.</p> <p>4 DEPOSITION OF: David N. Fuller (# 6757398)</p> <p>5 The above-referenced witness transcript is</p> <p>6 available for read and sign.</p> <p>7 Within the applicable timeframe, the witness</p> <p>8 should read the testimony to verify its accuracy. If</p> <p>9 there are any changes, the witness should note those</p> <p>10 on the attached Errata Sheet.</p> <p>11 The witness should sign and notarize the</p> <p>12 attached Errata pages and return to Veritext at</p> <p>13 errata-tx@veritext.com.</p> <p>14 According to applicable rules or agreements, if</p> <p>15 the witness fails to do so within the time allotted,</p> <p>16 a certified copy of the transcript may be used as if</p> <p>17 signed.</p> <p>18 Yours,</p> <p>19 Veritext Legal Solutions</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 95</p>	

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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# Exhibit A-4

**Withheld Due to Confidential Information  
Pending Motion for Leave to File Under Seal**